

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LARRIE HOPE, #181215,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:07-CV-210-MHT
)	
RICHARD ALLEN, et al.,)	
)	
Defendants.)	

ORDER ON MOTION

On August 22, 2007, the defendants filed a motion for reconsideration (Court Doc. No. 37) in which they seek reconsideration of the order entered on August 8, 2007 (Court Doc. No. 35) requiring that they supplement their special report with relevant evidentiary materials. Initially, the court notes that the documents and photographs ordered produced, if in the possession and control of the defendants, should have been filed as exhibits to their special report. *See Order of March 9, 2007 - Court Doc. No. 4* at 2. Moreover, the allegations of the plaintiff with respect to an unwarranted use of force set forth a violation of clearly established law. The law of this Circuit precludes a defense of qualified immunity in cases alleging excessive force in violation of the Eighth Amendment because the use of force “maliciously and sadistically to cause harm” is clearly established to be a constitutional violation. *Skritch v. Thornton*, 280 F.3d 1295, 1301 (11th Cir. 2002), citing *Hudson v. McMillian*, 503 U.S. 1 (1992), and *Whitley v. Albers*, 475 U.S. 312 (1986). In light of the foregoing, it is

ORDERED that:

1. The motion for reconsideration be and is hereby DENIED.
2. The defendants be GRANTED an extension from August 23, 2007 to and including September 4, 2007 to file a supplement to their special report in compliance with the directives of the order entered on August 8, 2007.
3. The plaintiff be GRANTED an extension from September 7, 2007 to and including September 27, 2007 to file a response to the defendants' special report in compliance with the directives of the order entered on May 18, 2007.

Done this 23rd day of August, 2007.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
UNITED STATES MAGISTRATE JUDGE